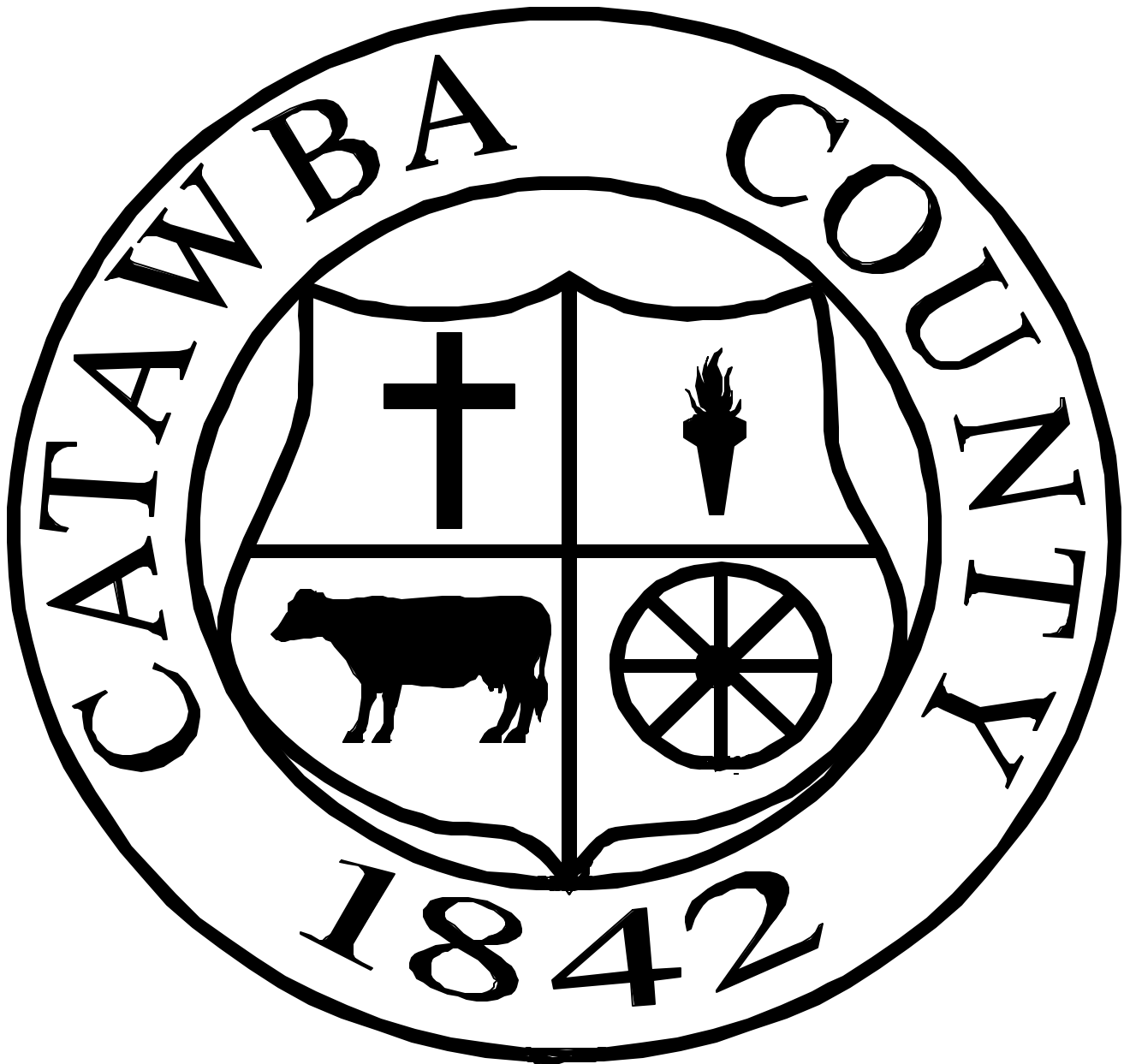


Article X – Special Uses



Current as of 7/01/2003

ARTICLE X. SPECIAL USES

DIVISION 1. GENERALLY

Sec. 44-326. Intent.

- (a) It is the intention of the board of commissioners to create and from time to time amend a list of special uses within the table of permitted and permissible uses which, because of their inherent nature, extent and external effects, require special care in the control of their location and methods of operation. The board is aware of its responsibility to protect the public health, safety and general welfare and believes that certain uses which, now or in the future, may be included on this list are appropriately handled as special uses, subject to review in relation to general and specific requirements, rather than as uses permitted by right.
- (b) In addition to the listing of such uses, the board of commissioners intends that the general standards, established in section 44-327, and the more specific requirements established in this article shall be used by the board of adjustment to direct deliberations upon applications for the approval of special uses. It is the express intent of the board of commissioners to delineate the areas of concern connected with each special use and to provide standards by which applications for that special use approval shall be evaluated.

(Code 1995, § 515.155)

Sec. 44-327. General standards.

- (a) The following general standards shall be met by all applicants for approval of special uses pursuant to this chapter:
 - (1) The use will not materially endanger the public health, safety, and general welfare, if located where proposed and developed and operated according to the application.
 - (1) The use, which is listed as a special use in the district in which it is proposed to be located, complies with all required regulations and standards, including article III of this chapter, unless greater or different regulations are contained in the individual standards for that special use.
 - (2) The use will not substantially injure the value of adjoining or abutting property.
 - (3) The use is in compliance with the general plans for the physical development of the county as embodied in this chapter.
- (b) The board of adjustment shall make these general findings based upon substantial evidence contained in its proceedings. It shall be the responsibility of the applicant to present evidence in the form of testimony, exhibits, documents, models, plans, and the like to support the application for approval of a special use.

(Code 1995, § 515.156) (Amd. Ord. 2/17/2003)

Sec. 44-328. Procedure for application.

- (a) *Application submitted to zoning administrator.* The application for a special use for the purposes of this chapter shall be submitted to the zoning administrator in accordance with the following:
 - (1) Applications for approval of special uses shall be filed with the zoning administrator, who shall before accepting any application ensure that it contains all required information, as specified in section 44-330.
 - (2) Applications which are not complete or which otherwise do not comply with this article shall not be accepted by the zoning administrator, but shall be returned forthwith to the applicant, with a notation by the zoning administrator of the deficiencies in the application.
- (b) *Report on special uses.* For a special use, the zoning administrator shall submit within 30 days a report and recommendations to the board of adjustment.
- (c) *Public hearing required.* A public hearing shall be required and notice shall be given as follows:
 - (1) Prior to consideration of the application for approval of a special use, a public hearing thereon shall be held by the board of adjustment.
 - (2) The zoning administrator shall cause public notice to be given of the date, time, and place of the public hearing to be held to receive comments, testimony, and exhibits pertaining to the application for approval of a special use.
 - (3) Such notice shall be published in a newspaper of general circulation in the county once a week for two successive weeks, with the first notice to be published not less than 15 nor more than 25 days prior to the date of the hearing.
- (d) *Action on application.* The following actions may be taken on the application:
 - (1) After completion of the public hearing, the board of adjustment shall take action upon the application. This action shall be one of the following:
 - a. Approval;
 - b. Approval with conditions attached; and
 - c. Denial.
 - (2) In every case, the action of the board of adjustment shall include a summary of the evidence supporting the action taken by it on the application.
- (e) *Action subsequent to decision.* The following actions shall be taken subsequent to the decision of the board of adjustment:
 - (1) The zoning administrator shall cause notice of the disposition of the application to be sent by certified mail to the applicant and a copy of the decision to be filed in the office of the zoning administrator.
 - (2) The zoning administrator, for approval or approval with conditions, shall issue the necessary permit in accord with the action.

(Code 1995, § 515.157)

Sec. 44-329. Imposed conditions.

- (a) The board of adjustment may impose such reasonable conditions upon approval of a special use granted pursuant to this article as will afford protection of the public health, safety, and general welfare and ensure that substantial justice is done and equitable treatment provided.
- (b) Such conditions shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs.

(Code 1995, § 515.158)

Sec. 44-330. Contents of application.

The application for approval of a special use for the purposes of this chapter shall be submitted on forms provided by the zoning administrator. Such forms shall be prepared so that, when completed, a full and accurate description of the proposed use, including its location, appearance, and operational characteristics, shall be disclosed. Additionally, the forms shall, when completed by the applicant, disclose the following:

- (1) The name and address of the owner of the property involved;
- (2) The name and address of the applicant, if different from the owner; and
- (3) All relevant information needed to show compliance with the general and specific standards governing the special use which is the subject of the application.

(Code 1995, § 515.159)

Sec. 44-331. Minor changes and modifications.

- (a) The zoning administrator is authorized to approve minor changes in the approved plans of special uses, as long as they are in harmony with action of the board of adjustment, but shall not have the power to approve changes that constitute a modification of the approval. A modification shall require approval of the board of adjustment and shall be handled as a new application.
- (b) The zoning administrator shall use the following criteria in determining whether a proposed action is a minor change or a modification:
 - (1) Any change in location or any increase in the size or number of signs shall constitute a modification.
 - (2) Any increase in intensity of use shall constitute a modification. An increase in intensity of use shall be considered to be an increase in usable floor area; an increase in number of dwelling or lodging units; or an increase in outside land area devoted to sales, displays, or demonstrations.
 - (3) Any change in parking areas resulting in an increase or reduction of five percent or more in the number of spaces approved by the board of adjustment shall constitute a modification. In no case shall the number of spaces be reduced below the minimum required by this chapter.
 - (4) Structural alterations significantly affecting the basic size, form, style, and the like of the building, as shown on the approved plan, shall be considered a modification.

- (5) Substantial decrease in the amount or location of open space, recreation facilities, or landscape screens shall constitute a modification.
 - (6) A change in use shall constitute a modification.
 - (7) Substantial changes in pedestrian or vehicular access or circulation shall constitute a modification.
 - (c) The zoning administrator shall, before making a determination as to whether a proposed action is a minor change or a modification, review the record of the proceedings on the original application for the approval of the special use.
 - (d) The zoning administrator shall, if he determines that the proposed action is a modification, require the applicant to file a request for approval of the modification, which shall be submitted to the board of adjustment. The board of adjustment may approve or disapprove the application or approval of a modification and, prior to its action, may hold a public hearing thereon.
- (Code 1995, § 515.160)

Secs. 44-332--44-341. Reserved.

DIVISION 2. STANDARDS FOR INDIVIDUAL SPECIAL USES

Sec. 44-342. Adult uses.

The following standards shall be used in deciding applications for approval of adult uses:

- (1) All windows, doors, entries, and the like for all adult uses shall be so located, covered, screened, or otherwise treated that views of the interior of the establishment are not possible from any public or semipublic area, street, or way.
- (2) No adult use shall be located within a 1,000-foot radius of another adult use. Distance shall be measured from property line to property line, along the shortest distance between property lines, without regard to the route of normal travel.
- (3) No adult use shall be located within 500 feet of any residential district.
- (4) Nothing in this section shall be construed to permit the operation of any business or the performance of any activity prohibited under any other section of this chapter or the laws of the county or state.

(Code 1995, § 515.162)

Sec. 44-343. Airport/airstrip.

The following standards shall be used in deciding applications for approval of airport/airstrip uses:

- (1) No airport/airstrip shall be located on a parcel of land less than ten acres.
- (2) All Federal Aviation Administration regulations that apply shall be met and

indicated to the board prior to approval, if applicable.

- (3) The minimum length for the landing strip shall be 3,000 feet long.
- (4) Each end of the landing strip shall be at least 600 feet from any exterior property line of the parcel of land on which the airport/airstrip is located.
- (5) The board may require other conditions that would protect the property values and living standards of properties in the area, including but not limited to sound barriers, hours of operation, size and type of aircraft, and the like.

(Code 1995, § 515.163)

Sec. 44-344. Animal hospitals and veterinary clinics.

The following standards shall be used in deciding applications for approval of animal hospital and veterinary clinic uses:

- (1) All activities, with the exception of animal exercise yards, shall be conducted within an enclosed building.
- (2) Buildings housing animal hospitals or veterinary clinics shall be located no closer than 100 feet from an adjacent residential district.
- (3) Exercise and confinement yards shall be not less than 200 feet from any dwelling unit on adjacent property.

(Code 1995, § 515.164)

Sec. 44-345. Boardinghouse or rooming house or bed-and-breakfast operation.

The following standards shall be used in deciding an application for boardinghouse or roominghouse or bed-and-breakfast uses:

- (1) All required off-street parking shall be located outside of required yards.
- (2) No more than four bedrooms shall be devoted to accommodation of transients.
- (3) The operators shall be full-time residents of the premises.
- (4) Signs shall be limited to one non-illuminated sign of not more than four square feet.

(Code 1995, § 515.165)

Sec. 44-346. Campgrounds.

The following standards shall be used in deciding an application for approval of campground uses:

- (1) *Group camp facilities operated on profit or nonprofit basis.* Standards for group camp facilities operated on a profit or nonprofit basis are as follows:
 - a. No camp shall have a maximum design capacity of more than 150 campers.
 - b. Each group camp shall provide a minimum of one-half acre per camper.
 - c. All buildings and areas for organized recreational use shall be set back a

minimum distance of 50 feet from any exterior property line, and a buffer shall be provided as set forth in section 44-151, table 3, under "multifamily use."

- d. Cabins in the camp shall be a minimum distance of 50 feet from one another and a minimum distance of 75 feet from any toilet facility. No cabin shall be more than 150 feet from toilet facilities.
 - e. A preliminary site plan drawn to a scale of not less than 200 feet to the inch nor more than 50 feet to the inch shall be submitted for each group camp facility application. The sketch shall include, among other things, the requirements set forth in this subsection and other information that is required for a special use permit application.
- (2) *Camps providing sites for tents and camping trailers.* Standards for camps providing sites for tents and camping trailers are as follows:
- a. The minimum size of a camp providing sites for tents and camping trailers shall be five acres of land.
 - b. A minimum of 3,000 square feet of area shall be provided for each tent or trailer space.
 - c. All buildings, tent spaces, and trailer spaces shall be set back a minimum distance of 50 feet from any exterior property line, and a buffer strip shall be provided, as required in section 44-151, table 3, under "multiple-family use."
 - d. A sanitary source of drinking water shall not be more than 200 feet, toilet facilities not more than 400 feet, and washhouses not more than 1,500 feet from any tent or trailer space. This subsection (2)d shall not apply where community water and sewer connections are provided to trailers having self-contained kitchens and bathroom facilities.

(Code 1995, § 515.166)

Sec. 44-347. Human and pet cemeteries.

- (a) *Cemetery, human public.* The following standards shall be used in deciding an application for approval of a human public cemetery:
- (1) All requirements of the state general statutes regarding the interment of human dead shall be met.
 - (2) A minimum lot size of 85,000 square feet shall be provided.
 - (3) There shall be adequate space within the site for the parking and maneuvering of funeral corteges.
 - (4) No interment shall take place within 30 feet of any lot line.
 - (5) All structures shall be set back a minimum of 25 feet from any lot line.
 - (6) All structures over 25 feet in height must be set back a minimum of 25 feet plus two feet for each one foot of height over 25 feet to the maximum height permitted by the zoning district in which it is located or 50 feet, whichever is more

restrictive.

(b) *Cemetery, pet.* The following standards shall be used in deciding an application for approval of a pet cemetery:

- (1) All applicable federal, state, and local regulations governing animal cemeteries shall have been met.
- (2) A minimum lot size of 40,000 square feet shall be provided.
- (3) No interment shall take place within 30 feet of any lot line.
- (4) All structures shall be set back a minimum of 25 feet from any boundary line.
- (5) All structures over 25 feet in height must be set back a minimum of 25 feet plus two feet for each one foot of height over 25 feet to the maximum height permitted by the zoning district in which it is located or 50 feet, whichever is more restrictive.

(Code 1995, § 515.167)

Sec. 44-348. Child and adult care centers.

The following standards shall be used in deciding an application for approval of child and adult care centers:

- (1) A paved semicircular driveway, 20 feet in width with a minimum inside radius of 20 feet, shall be provided.
- (2) A fenced outdoor playing area for children shall be provided in the rear yard.
- (3) Uses designed to accommodate more than 30 children shall be located upon and shall have direct access to an arterial or collector street as shown on the thoroughfare plan.
- (4) Uses designed to accommodate more than 30 children shall have a minimum lot size of 40,000 square feet.
- (5) Child and adult care centers shall, as usual practice, be located as follows:
 - a. So that the center forms part of a group of community service uses, such as churches, schools, parks, and the like.
 - b. At the edges of commercial or office developments, where they will form a transition between these uses and surrounding residential uses.
 - c. If within a residential or agricultural area, where the use will be buffered from surrounding uses by environmentally sensitive areas or open space.
- (6) The design, intensity, and scale of the child care center shall be compatible with the surrounding land uses and zoning.
- (7) Evidence shall be provided that the requirements and standards of the state department of human resources have been and shall continue to be met.

(Code 1995, § 515.168)

Sec. 44-349. Community recreational uses.

The following standards shall be used in deciding an application for approval of community recreational uses:

- (1) Where membership is not limited to residents of adjacent residential areas, the site shall have direct access to an arterial or collector street, as shown on the thoroughfare plan.
- (2) All required yards shall be 40 feet.
- (3) A minimum lot size of 20,000 square feet shall be provided.
- (4) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which it is located. Additionally, the maximum illumination permitted at the zoning lot line shall be 0.20 footcandle.

(Code 1995, § 515.169)

Sec. 44-350. Congregate living facilities.

The following standards shall be used in deciding an application for approval of congregate living facilities:

- (1) No such use shall be established within 1,200 feet of another such use or a professional residential facility.
- (2) The requirements and standards of the state department of human resources shall have been and shall continue to be met.
- (3) No external evidence of such use, distinguishing the living facility from a regular dwelling, shall be visible from adjacent property, public or private.
- (4) Each facility shall be designed and built to appear as similar to a residential structure as possible.

(Code 1995, § 515.170)

Sec. 44-351. Dragstrips and racetracks.

The following standards shall be used in deciding applications for approval of dragstrips and racetracks:

- (1) The minimum lot size shall be 40 acres.
- (2) The lot shall have direct access to an arterial street as shown on the thoroughfare plan.
- (3) This use shall be considered, for the purposes of section 44-151, to be in group 3 and shall meet the provisions of section 44-151.

(Code 1995, § 515.171)

Sec. 44-352. Firing ranges.

The following standards shall be used in deciding applications for approval of firing ranges:

- (1) Such a use shall not be located within 2,640 feet of any residence.
- (2) The maximum caliber for rifled barrels shall be .45, for black powder barrels .60, and for nonrifled barrels 12 gauge.
- (3) A projectile-proof backstop, consisting of concrete, steel, earth, or a combination thereof, at least 15 feet high shall be erected and maintained behind all target areas.

(Code 1995, § 515.172)

Sec. 44-353. Junkyards.

The following standards shall be used in deciding an application for approval of junkyards:

- (1) This site shall have direct access to an arterial or collector street as shown on the thoroughfare plan.
- (2) The provisions of section 44-151 shall be met. Additional buffering and screening shall be required so that materials shall not be visible from any street and any adjacent less intensive use of land.
- (3) No material shall be stored closer than 30 feet from the zoning lot lines.

(Code 1995, § 515.173)

Sec. 44-354. Landfills.

In addition to the information received for all applications for approval of special uses, two copies of a completed landfill permit application form from the solid waste management section of the division of health services shall be required for landfills.

(Code 1995, § 515.174)

Sec. 44-355. Marinas and dry storage facilities.

The following standards shall be used in deciding applications for approval of marinas and dry storage facilities:

- (1) All operations shall be so located as to prevent hazards to navigation.
- (2) No material shall be stored closer than 30 feet from the zoning lot lines.

(Code 1995, § 515.175)

Sec. 44-356. Mining of earth products.

In addition to the information required for all applications for approval of special uses, the following shall be submitted as part of the application for mining of earth products:

- (1) Two copies of a completed mining application form and an approved mining permit from the state department of environment, health and natural resources, land quality section.
- (2) An operation plan, which shall include the following:
 - a. The date proposed to commence operations and their expected duration.

- b. Proposed hours and days of operations.
 - c. Estimated type and volume of extraction.
 - d. Description of method of operation, including the disposition of topsoil, overburden, and byproducts.
 - e. Description of equipment to be used in the extraction process.
 - f. Any phasing of the operation and the relationship among the various phases.
 - g. Operating practices which will be followed to comply with the performance standards applicable to the operation.
- (3) For mining activities, not including sand, soil and clay, the following specific standards shall be used in deciding an application for approval of a special use permit:
- a. The permanent roads, defined as those to be used in excess of one year, within the excavation site shall be surfaced with a dustfree material from the nearest public road to the yard area. Also all permanent roads within 300 feet of any residentially zoned land should be treated the same.
 - b. Roads other than permanent shall be treated with dust inhibitors, such as water wagons, to reduce the generation of dust.
 - c. Where the proposed extraction shall take place within 300 feet of a dwelling, school, church, hospital, or commercial or industrial building, public building, or public land, a security fence at least six feet high shall be installed.
 - d. An undisturbed buffer of a minimum of 100 feet shall be maintained around the mining activity at all times, excluding entrance roads.
 - e. Adjacent to the mining activity a vegetated buffer a minimum of 30 feet, as described in section 44-151, shall be maintained.
 - f. No off-site refuse shall be dumped on site unless a permit has been issued by the state division of solid waste management for such an activity.

(Code 1995, § 515.176)

Sec. 44-357. Nursing, convalescent and extended care facilities.

The following standards shall be used in deciding applications for approval of nursing, convalescent and extended care facilities:

- (1) All nursing, convalescent, and extended care facilities shall have direct access to a collector or arterial street, as shown on the thoroughfare plan.
- (2) Minimum lot size shall be 30,000 square feet with a minimum frontage of 150 feet.
- (3) Front, rear, and side setbacks shall be a minimum of 50 feet.
- (4) Buffers and screening shall be as required by section 44-151.

- (5) Signs shall be limited to one non-illuminated sign with a maximum area of six square feet. The sign shall be attached either flush to the wall of the building or else shall be located at ground level with a maximum height of four feet from the ground. No other external evidence of the use for identification or advertising purposes shall be permitted.
- (6) Evidence shall be presented that all the requirements of the state have been and shall continue to be met.

(Code 1995, § 515.177)

Sec. 44-358. Public service facilities.

The following standards shall be used in deciding applications for approval of public service facilities:

- (1) Operating requirements shall necessitate locating in the district.
- (2) Buffers and screening shall be provided as required by section 44-151.
- (3) Front, rear and side setbacks shall be a minimum of 50 feet.
- (4) Whenever possible, such facilities shall be designed and constructed to have the same height and bulk as adjacent structures.
- (5) The facility shall have direct access to a collector or arterial street as shown on the thoroughfare plan.

(Code 1995, § 515.178)

Sec. 44-359. Public use facilities.

The following standards shall be used in deciding applications for approval of public use facilities:

- (1) The facility shall have direct access to a collector or arterial street as shown on the thoroughfare plan.
- (2) Buffers and screening shall be as required by section 44-151.
- (3) Front, rear, and side setbacks shall be a minimum of 50 feet.
- (4) Whenever possible, such facilities shall be designed and constructed to have the same height and bulk as adjacent structures.

(Code 1995, § 515.179)

Sec. 44-360. Commercial roadside stands.

The following standards shall be used in deciding applications for commercial roadside stands:

- (1) The use shall provide for all required off-street parking and loading on private property.
- (2) The use shall be located along and shall have direct vehicular access to a public street.

- (3) No sales or display activity shall be located on public land.
- (4) Access to and from the site shall be in accord with the requirements of the state department of transportation.

(Code 1995, § 515.180)

Sec. 44-361. Public stables.

The following standards shall be used in deciding applications for approval of public stables:

- (1) Front, rear, and side yards shall be a minimum of 50 feet.
- (2) Parking shall be provided at a ratio of one parking space for every five stalls.
- (3) Buffers and screening shall be as required in section 44-151.
- (4) The operator of the stable shall be responsible for using good management practices to discourage undesirable odors and insects.

(Code 1995, § 515.181)

Sec. 44-362. Kennels.

The following standards shall be used in deciding applications for approval of kennels.

- (1) There shall be a minimum lot size of ten acres. (Ord Amd. 9/17/2001)
- (2) All activities, with the exception of animal exercise areas, shall be conducted within an enclosed building.
- (3) A 300-foot separation shall be maintained between the kennel, including exercise area, and any residential property line.
- (4) The disposal methods for wastes generated shall be reviewed and approved by the environmental health section of the county health department.
- (5) A group 2 buffer shall be provided pursuant to section 44-151 pertaining to buffers and screening.

(Code 1995, § 515.182)

Sec. 44-363. Nursery/landscaping businesses.

The following specific standards shall be used in deciding an application for approval of nursery/landscaping businesses:

- (1) The site shall have at least 150 feet fronting along a state-maintained road.
- (2) The minimum lot size shall be 60,000 square feet, with a maximum lot size of 120,000 square feet.
- (3) All vehicles and/or equipment shall be stored in an enclosed building or under a roof.
- (4) Front, rear, and side setbacks shall be a minimum of 40 feet.
- (5) Uses shall meet all criteria set forth in section 44-151 of this chapter concerning

buffering and screening.

- (6) Structures constructed shall not exceed a maximum floor area ratio of 1:3.
- (7) Mulch and gravel piles, etc., shall be located out of the front, rear and side setbacks.
- (8) Commercial nursery/landscaping businesses being permitted as special uses in the R-2 residential district shall have gravel parking areas and driveways.

(Code 1995, § 515.183)

Sec. 44-364. Outdoor flea markets.

The following standards shall be used in deciding applications for approval of outdoor flea markets:

- (1) The use shall have a minimum of at least five acres fronting along a collector road.
- (2) All area used for vendors and aisles must be paved.
- (3) Front, rear and side setbacks shall be a minimum of 60 feet.
- (4) Evidence shall be presented that the requirements and standards of the county health department, environmental health section, have been met.
- (5) The use must comply with sections 44-151 and 44-298 pertaining to buffering and landscaping criteria for the county.
- (6) The use must meet the requirements of section 44-296 of this chapter concerning required parking spaces.

(Code 1995, § 515.184)

Sec. 44-365. Radio frequency test facilities.

The following standards shall be used in deciding applications for approval of radio frequency test facilities:

- (1) Minimum lot size shall be 15 acres.
- (2) The facility shall be constructed to minimize the impact on the current land use. Enclosed habitable working areas, incorporated into the facility, shall not total more than 625 square feet.
- (3) The front, rear, and side setbacks shall be a minimum of 100 feet.
- (4) Security fences shall be installed around towers and other structures and facilities to prevent undesirable access to structures.
- (5) Private parking shall be provided according to article IX of this chapter. Improved access from one part of the facility to other structures and parking may be gravel or the equivalent.
- (6) The maximum height of any part of this facility shall be no greater than 60 feet.
- (7) The requirement of a 15-foot buffer, set forth in section 44-151, shall be waived.

- (8) All of the requirements of the Federal Communications Commission must be met, if applicable.

(Code 1995, § 515.185) (Ord. Amd. 10/21/2002)

Sec. 44-366. Manufactured home parks.

- (a) The regulations and requirements applying to manufactured home parks are found in chapter 26.
- (b) Manufactured home parks may be established in an R2 zone in accordance with the general procedures and requirements set forth in chapter 26.
- (c) It is the intent of this chapter to provide for development of such parks in scale with surrounding areas, at locations appropriate and in accord with standards set forth in chapter 26, designed to meet the needs of the residents, and to achieve a satisfactory relationship to adjoining and nearby property.

(Code 1995, § 515.186)

Sec. 44-367. Sawmills.

The following standards shall be used in deciding applications for approval of sawmills:

- (1) The minimum lot size shall be three acres with a maximum land area of six acres.
- (2) A minimum of 75 feet along an arterial or collector road or a dedicated, platted and recorded 45-foot right-of-way shall be required to provide access to the parcel.
- (3) The permanent roads, defined as those to be used in excess of one year, shall be surfaced with a dustfree material from the nearest public road to the yard area. Also, a 100-foot gravel area shall be maintained to be used as an entrance for this sawmill operation.
- (4) No such use shall be established within 1,000 feet of any residential dwelling.
- (5) Hours of operation shall be between 7:00 a.m. and 7:00 p.m., Monday through Friday.
- (6) Any sawmill, planer, edger, stacker, debarker, chipper, cyclone, conveyor belt, trailer, or other similar equipment which is an integral part of the sawmill must be set back at least 100 feet from the property line. Any logs, lumber, slabs, or sawdust stored on the property must be set back at least 30 feet from the property line.
- (7) This use shall comply with section 44-151 pertaining to buffers and screening criteria for the county.
- (8) This use shall comply, where applicable, with all federal, state and local environmental regulations.
- (9) All applicable driveway permits must be obtained from the state department of transportation.

(Code 1995, § 515.187)

Sec. 44-368. Television and/or tower facilities.

- (a) The purpose of this section is to establish general guidelines for the siting of towers and antennas. The goals of this section are to:
 - (1) Encourage the location of towers in nonresidential/nonhistorical areas and minimize the total number of towers throughout the community;
 - (2) Enhance the ability of the providers of television and/or radio services to provide such services to the community quickly, effectively and efficiently;
 - (3) Encourage strongly the joint use of new and existing tower sites;
 - (4) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; and
 - (5) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
- (b) Communication companies are encouraged to locate television and/or radio antennas on or in structures other than a tower. Such structures may include church steeples, transmission line towers, utility/light poles, water towers, etc. Where such facilities are not available, collocation of facilities is encouraged. When a new tower is proposed to be sited, a determination of whether the location will provide a minimal level of coverage versus optimal coverage shall be taken into consideration. The following standards shall be used in the approval of the siting of new towers:
 - (1) Evidence that the applicant has investigated the possibilities for locating the proposed facilities on an existing tower where a minimal level of coverage can be provided. Such evidence shall consist of the following:
 - a. Copies of letters sent to owners of all existing towers within a one-mile radius of the proposed site, requesting the following information:
 - 1. Tower height;
 - 2. Existing and planned tower users;
 - 3. Whether the existing tower could accommodate the proposed antenna without causing instability or radio frequency interference; and
 - 4. If the proposed antenna cannot be accommodated on the existing tower, an assessment of whether the existing tower could be structurally strengthened or whether the antenna's transmitters and related equipment could be protected from electromagnetic interference, and a general description of the means and projected cost of shared use of the existing tower;
 - b. A copy of all responses within 30 days from the mailing date of the letter required by subsection (1)a of this section; and
 - c. A summary explanation of why the applicant believes the proposed facility cannot be located on an existing tower.
 - d. A summary explanation of why the applicant believes that the use of an

alternative tower structure is not possible.

- e. Provision of sound engineering evidence demonstrating that location in the proposed district is necessary in the interest of public safety or is a practical necessity.
- (2) Evidence that the tower is structurally designed to support at least one additional user, and the special use application includes a statement that the owner of the tower is willing to permit other users to attach communication facilities, on a commercially reasonable basis, which do not interfere with the primary purpose of the tower. The tower owner may require that such other users agree to negotiate reasonable compensation to the owner from any liability which may result from such attachment. The site plan shall indicate a location for at least one equipment building in addition to that proposed for use by the applicant. Priority for collocation on the proposed tower shall be given to antennas that will serve a public safety need for the community.
 - (3) Buffering of the site shall be installed in accordance with section 44-151, which contains table 3, buffer matrix. In order to provide spatial separation and create visual block from adjacent properties and streets, a buffer shall be installed around the outside of all improvements on the site, including the tower and guy anchors, any ground buildings or equipment, and security fencing. Ground buildings located in a residential district may be located outside the buffered area if they are constructed so the exterior appearance of the building has the appearance of a residential dwelling, including pitched roof and frame or brick veneer construction. The applicant shall submit scaled elevations of such buildings to assist in the evaluation of compliance with this appearance criteria. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this section.
 - (4) The base of the tower and each guy anchor shall be surrounded by a security fence or wall at least eight feet in height unless the tower and all guy anchors are mounted entirely on a building over eight feet in height. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this section.
 - (5) No outside storage shall be allowed on any facility site.
 - (6) Associated buildings located in any residential district shall not be used as an employment center for any worker. This subsection (b)(6) does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.
 - (7) The tower shall meet all applicable Federal Aviation Administration (FAA) standards and shall not restrict or interfere with air traffic or air travel from or to any existing or proposed airport. Any lighting shall not project onto surrounding residential property.
 - (8) The minimum lot size requirement shall be in accordance with table 2, schedule of area, height, bulk and placement regulations, based upon the zoning district where the tower is proposed to be located or the setback requirements of subsection (b)(12) of this section, whichever is greater.
 - (9) The color of the tower shall be neutral, except to the extent required by federal

law, so as to minimize its visual impact.

- (10) In order to protect the public from unnecessary exposure to electromagnetic radiation, the tower owner shall provide documentation, such as a signed affidavit, indicating that the power density levels do not exceed levels certified by the Federal Communications Commission.
- (11) No commercial advertising shall be allowed on the facility's site.
- (12) The setback of the base of the tower from all adjacent property lines shall be one foot for each foot in height. This setback may be reduced by the board of adjustment upon a finding that failure to grant a setback reduction would have the effect of prohibiting the provision of personal wireless services, that the reduction serves the general intent and purpose of this chapter and the adopted comprehensive plan and that the reduction will not substantially interfere with or injure the rights of others whose property would be affected by the reduced setback. In no case shall the setback be reduced to less than 50 percent of the tower height. To encourage shared use of towers, applications for towers which will operate with more than one user immediately upon completion may have a ten-percent reduction in the required setbacks. Also, to encourage the construction of monopole structures, monopole towers may have a 20-percent reduction in the required setbacks. To encourage location of towers in existing forested areas with a minimum depth of 65 feet, the tower may have a 20-percent reduction in the required setbacks. In no case shall the setback be less than those required for the underlying zoning district. Such setback reductions shall only be allowed upon a professional engineering certification which states that the structure's construction will cause the tower to crumble inward so that if a collapse occurs no damage to structures on adjacent zoning lots will result.
- (13) Notice shall be provided to the zoning administrator when the tower is placed out of service. Towers which are not used for a period of six months or more shall be removed by the owner of the tower within 120 days of receipt of notification to that effect.

(Code 1995, § 515.188; Ord. No. 2002-10, § 515.188, 10-21-2002)

Cross references: Telecommunications, ch. 42.

Sec. 44-369. Hospice house residential facilities.

The following standards shall be used in deciding applications for approval of hospice house residential facilities:

- (1) The facility shall have direct access to a collector or arterial street as shown on the thoroughfare plan.
- (2) Buffers and screening shall be as required by section 44-151.
- (3) Parking shall be provided pursuant to section 44-296 pertaining to required parking.
- (4) Minimum lot size shall be 30,000 square feet with a minimum road frontage of 150 feet.
- (5) Front, rear, and side setbacks shall be a minimum of 50 feet.

- (6) Signs shall be limited to one non-illuminated sign with a maximum area of 16 square feet. The sign shall be attached either flush to the wall of the building or shall be located at ground level with a maximum height of four feet from the ground. No other external evidence of the use for identification or advertising purposes shall be permitted.

(Code 1995, § 515.189)

Sec. 44-370. Conference/retreat centers.

The following standards shall be used in deciding applications for approval of conference/retreat centers:

- (1) A minimum lot size of five acres shall be provided.
- (2) This facility shall be used by organized groups only.
- (3) All required yard setbacks shall be 100 feet.
- (4) The site shall have direct access to an arterial or collector street, as shown on the thoroughfare plan.
- (5) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which the fixture is located. Additionally, the maximum illumination permitted at the zoning lot line shall be 0.20-foot candle.
- (6) The requirements and standards of the state department of environment and natural resources shall be met.
- (7) This use shall be considered, for the purpose of section 44-151, to be in group 2 and shall meet the buffer provisions of such section.

(Code 1995, § 515.190)

Sec. 44-371. Recreational fish lake or pond.

The following standards shall be used in evaluating applications for approval of a recreational fish lake or pond:

- (1) A minimum lot size of five acres shall be provided.
- (2) All required yard setbacks shall be 100 feet.
- (3) The site shall have direct access to a major thoroughfare, arterial or collector street, as shown on the county thoroughfare plan.
- (4) Off-street parking shall be provided in accordance with section 44-296, which pertains to required parking spaces for temporary events. The parking area must be a dustless and durable surface.
- (5) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which it is located. The maximum illumination permitted at the zoning lot line shall be 0.20 footcandle. All lighting shall be shown on the site plan with applicable typical diagrams.
- (6) No alcohol shall be permitted on the premises.
- (7) No electronic sound amplification shall be permitted.

- (8) A site plan, drawn to scale, shall indicate location of water, parking, bathroom facilities and other planned structures and shall be submitted to the zoning office with the application.
- (9) Proof of commercial insurance is required.
- (10) The requirements and standards of the state department of environmental and natural resources shall be met for adequate sewage disposal facilities.
- (11) Signs shall be limited to one non-illuminated sign with a maximum area of 16 square feet.

(Code 1995, § 515.191)

Sec. 44-372. Membership organizations.

The following standards shall be used in deciding applications for approval of membership organizations:

- (1) This use shall be considered, for the purpose of section 44-151, to be in group 2 and shall meet the buffer provisions of such section.
- (2) This site shall have direct access to an arterial or collector street, as shown on the thoroughfare plan.
- (3) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which the fixture is located. Additionally, the maximum illumination permitted at the zoning lot line shall be 0.20-foot candle.
- (4) Paved parking spaces required shall be as follows:
 - a. One space for each three persons able to use the facility at its maximum capacity.
 - b. Plus ten waiting spaces.
 - c. Plus one parking space for each two employees.
- (5) All required yard setbacks shall be 40 feet.
- (6) Signage shall be limited to one non-illuminated sign with a maximum area of 15 square feet.

(Code 1995, § 515.192)

Sec. 44-373. Land-clearing and inert debris (LCID) landfills.

The following standards shall be used in deciding applications for approval of land-clearing and inert debris (LCID) landfills:

- (1) The designated area of the landfill must be two acres or less. LCID landfills larger than two acres require a state permit.
- (2) The facility may only be used for the purpose of disposal of land-clearing debris, concrete, brick, concrete block, uncontaminated soil, used pavement asphalt, gravel or rock, untreated or unpainted wood, or yard waste. The facility may not be used for the disposal of construction or demolition debris.

- (3) The landfill must be located out of the 100-year floodplain and not in a wetland.
- (4) The landfill must be 100 feet from any property line.
- (5) The landfill must be 100 feet from any residential dwelling or commercial or public building.
- (6) The landfill must be 100 feet from any well.
- (7) The landfill must be 50 feet from all surface waters.
- (8) The landfill must be placed above the seasonal high groundwater table.
- (9) The owner must furnish soil borings for determining adequate separation from groundwater.
- (10) The facility must be adequately secured by means of gates, chains, berms, or fences, etc.
- (11) A sign, with minimum letter size of four inches, must be posted at the entrance stating "Authorized Persons Only" and "No Trespassing--Keep Out."
- (12) A surveyed map of the property shall be prepared. The survey map shall be either 8 1/2 inches by 11 inches or 8 1/2 inches by 14 inches. The map must show the following:
 - a. Name of the owner, property lines, north arrow, scale, bearings and distances taken from the deed.
 - b. Disposal area delineated.
 - c. Certification and seal of the registered land surveyor or registered engineer.
 - d. The review officers' certificate to be signed by a county review officer.

A memorandum of the land-clearing and inert debris landfill along with an attached survey map delineating the landfill must be recorded at the office of the county register of deeds. After the documents are recorded, a copy must be furnished to the county planning and community development office.
- (13) Adequate soil cover must be applied monthly, and the final cover must be a minimum of two feet of compacted earth properly graded with establishment of suitable vegetative cover.
- (14) The permit shall be issued for not more than five years.
- (15) An LCID landfill permit must be obtained from the county department of health, environmental health section, pursuant to section 32-37.
- (16) The facility must meet, be permitted and operated in accordance with the state solid waste managements rules, 15A NCAC 13B.

(Code 1995, § 515.193)

Sec. 44-374. Zoos.

The following standards shall be used in deciding applications for approval of zoos:

- (1) Minimum lot size shall be ten acres.
 - (2) This use shall be considered, for the purpose of section 44-151, to be in group 2 and shall meet the buffer provisions of such section.
 - (3) This site shall have direct access to an arterial or collector street, as shown on the thoroughfare plan.
 - (4) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which the fixture is located. Additionally, the maximum illumination permitted at the zoning lot line shall be 0.20-foot candle.
 - (5) Paved parking spaces required shall be as follows:
 - a. One space for each three persons able to use the facility at its maximum capacity.
 - b. Plus ten waiting spaces.
 - c. Plus one parking space for each two employees.
 - (6) All required yard setbacks shall be 100 feet.
 - (7) Signage shall be limited to one non-illuminated sign with a maximum area of 16 square feet.
 - (8) No more than 25 percent of any area under roof, exclusive of animal containment areas, may be dedicated to retail sales.
 - (9) No external evidence of retail sales shall be permitted.
- (Code 1995, § 515.194)

Sec. 44-375. Accessory dwelling unit/guesthouse.

The following standards shall be used in deciding applications for approval of an accessory dwelling unit/guesthouse:

- (1) The use must comply with all requirements of the county health department, environmental health section, for on-site sewage and well regulations.
- (2) A detached accessory dwelling unit shall be permitted as an accessory to any detached single-family dwelling unit. The accessory dwelling unit shall be clearly subordinate to the principal structure.
- (3) No more than one accessory dwelling unit shall be permitted on a single deeded lot in conjunction with the principal dwelling unit.
- (4) The accessory dwelling unit shall be owned by the same person as the principal dwelling.
- (5) Accessory dwelling units shall adhere to the maximum permitted height requirement for the zoning district in which the unit is to be located.
- (6) An accessory dwelling unit shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling unit is accessed from a different road or street than the principal structure.

- (7) An accessory dwelling unit shall not exceed 650 square feet or 50 percent of the gross heated floor area of the principal dwelling. The accessory dwelling unit may be combined with a garage, workshop, etc.
- (8) An accessory dwelling unit shall adhere to the setbacks for the district in which they are to be located.
- (9) The accessory dwelling unit must comply with all applicable sections of the state residential building code.

(Code 1995, § 515.195)

Sec. 44-376. Museums.

The following standards shall be used in deciding applications for approval of museums:

- (1) The use shall have direct access to an arterial or collector street.
- (2) A minimum lot size of 40,000 square feet shall be required.
- (3) Retail sales shall be limited to five percent of the total usable floor area of the use.
- (4) No external evidence of retail sales shall be permitted.
- (5) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which the fixture is located. Additionally, the maximum illumination permitted at the zoning lot line shall be 0.20-foot candle.
- (6) Signage shall be limited to one non-illuminated sign with a maximum area of 16 square feet.
- (7) This use shall be considered, for the purpose of section 44-151, to be in group 1 and shall meet the buffer provisions of such section.
- (8) Parking spaces required shall be two parking spaces per 1,000 square feet of gross floor area in accordance with sections 44-296 through 44-300. Parking spaces shall be paved unless the board of adjustment determines that graveled spaces will be appropriate in the planned setting.

(Code 1995, § 515.196)

Sec. 44-377. Professional residential facilities.

The following standards shall be used in deciding applications for approval of professional residential facilities:

- (1) All professional residential facilities shall have direct access to a collector or arterial street, as shown on the thoroughfare plan.
- (2) Minimum lot size shall be 30,000 square feet with a minimum frontage of 150 feet.
- (3) Front, rear, and side setbacks shall be a minimum of 50 feet.
- (4) Buffers and screening shall be as required by section 44-151.
- (5) Signs shall be limited to one non-illuminated sign with a maximum area of six square feet. The sign shall be attached either flush to the wall of the building or

else shall be located at ground level with a maximum height of four feet from the ground. No other external evidence of the use for identification or advertising purposes shall be permitted.

- (6) Evidence shall be presented that all the requirements of the state have been and shall continue to be met.

(Code 1995, § 515.197)

Sec. 44-378. Permanent wood waste grinding operation.

The following standards shall be used in deciding an application for a permanent wood waste grinding operation:

- (1) The minimum lot size shall be five acres.
- (2) Grinding operations shall have direct access to a collector or arterial street as shown on the corresponding thoroughfare plan. However, the board of adjustment may approve a grinding operation on a secondary state department of transportation state-maintained road where the board finds that the road is of sufficient width and quality. All grinding operations shall have an approved driveway permit from the state department of transportation.
- (3) All traffic areas, including entrances and exits, within the area of operation shall be graveled or covered with a similar dust reduction material. Storage areas for mulch, dirt, wood waste or other similar materials need not be graveled.
- (4) No grinder, screener, or other similar equipment shall be located within 500 feet of any residential dwelling with the exception of the owner's or applicant's own residential dwelling. The site plan must include a footprint demonstrating where the equipment will be located in relation to dwellings locating on adjoining properties.
- (5) Any grinder, screener, or similar equipment must be set back at least 100 feet from the property lines. Any mulch, dirt, wood waste, or other similar material stored on the property must be located at least 50 feet from any property or road right-of-way lines.
- (6) No grinders, screeners, loaders, dozers, or other similar equipment shall be operated at the site except between 8:00 a.m. and 5:00 p.m. Monday through Friday; however, wood waste may be delivered to the site until 6:00 p.m. Monday through Friday, provided such deliveries are made by self-dumping trucks and the materials are not moved from the dumping point other than between 8:00 a.m. and 5:00 p.m. Monday through Friday. Wholesale and retail sales are allowed between 8:00 a.m. and 5:00 p.m. Monday through Friday. The board of adjustment may approve hours of operation other than those set forth in this subsection.
- (7) The retention of existing vegetation shall be maximized to the extent practicable to buffer the operation from adjoining property and road rights-of-way and to serve as a noise and dust barrier. Where vegetation does not exist, a combination of a berm and landscaped buffer to achieve an initial screen of ten feet must be installed which will achieve 75 percent opacity within two years.
- (8) The grinding operation must comply with any applicable regulations enforced by

the state department of environment and natural resources. These include, but may not be limited to, those laws under the divisions of waste management and air quality. Copies of all materials submitted to the state, either as part of a notification or a permit application, shall be submitted to the county.

(Ord. No. 2002-07, § 515.198, 8-19-2002)

Secs. 44-379--44-395. Reserved.